



ORDINARY AGENDA

Notice is hereby given that an **ORDINARY Meeting of the Council** will be held:

DATE: Tuesday, 28 November 2023

TIME: 5.00pm

VENUE: Council Chambers, Lowood Road, Mount Barker WA 6324


Julian Murphy
CHIEF EXECUTIVE OFFICER

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This agenda has yet to be dealt with by the Council. The Recommendations shown at the foot of each Item have yet to be considered by the Council and are not to be interpreted as being the position of the Council. The minutes of the meeting held to discuss this agenda should be read to ascertain the decision of the Council.

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Please Note: Council Meetings are recorded for accuracy of minute taking.

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

On establishing there is a quorum, the Presiding Member will declare the meeting open.

The Shire of Plantagenet acknowledges the traditional custodians of our area and their continuing connection to the land and community. We pay our respects to all members of the Menang Noongar community and their culture; and to Elders past, present and emerging.

2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Members Present:

In Attendance:

Apologies:

Members of the Public Present:

Previously Approved Leave of Absence:

3 PUBLIC QUESTION TIME

3.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

3.2 PUBLIC QUESTION TIME - SECTION 5.24 LOCAL GOVERNMENT ACT 1995

4 PETITIONS / DEPUTATIONS / PRESENTATIONS

5 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

6 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

Nil

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MINUTES OF COUNCIL HELD 31 OCTOBER 2023

Minutes, as circulated, of the Ordinary Meeting of the Shire of Plantagenet, held on 31 October 2023.

OFFICER RECOMMENDATION

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 31 October 2023 as circulated, be adopted as a true and correct record.

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 DEVELOPMENT SERVICES REPORTS

9.1.1 DRAFT LOCAL PLANNING POLICY NO. 4 – CHILD CARE PREMISES

File Ref:	N62408
Responsible Officer:	Delma Baesjou - Manager Development Services
Author:	André Pinto- Senior Planner
Proposed Meeting Date:	28 November 2023

PURPOSE

The purpose of this report is to consider adoption of a new Local Planning Policy to guide future development of Child Care Premises within the Shire.

BACKGROUND

The Planning and Development Act 2005 legislates the use and development of land in Western Australia through the planning system. The Shire's Local Planning Scheme No. 5 (LPS5) is a key part of this planning system, controlling the use and form of buildings. This is supported by various local and state planning policies.

The Shire currently does not have a Local Planning Policy that provides guidance for development of Child Care Premises.

The shortage of Child Care Premises within the Shire is noted as a hurdle for many families wanting to move to the area to live and work. The current shortfall in supply, and un-met demand is hampering workforce growth and impacting community and economic development.

The new Local Planning Policy aims to provide a framework and guidelines for the development of new Child Care Premises. As well as providing a clear pathway for proponents, the Policy outlines planning criteria and development standards, including consideration of potential impact on adjoining dwellings and businesses.

EXTERNAL CONSULTATION

In accordance with Council Resolution 149/23 and Schedule 2, Part 12 clause 87, subclauses 3, 4 and 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the draft Local Planning Policy was advertised to the public between 18 October 2023 and 1 November 2023. No submissions were received. As a result, it is assumed there is no objections and there is support for the adoption of the policy.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Plantagenet Local Planning Scheme No. 5 (LPS5)

POLICY IMPLICATIONS

This policy is presented to the Council as part of its ongoing policy review cycle.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Corporate Business Plan 2022/23 – 2025/26 provides:

At *Outcome 2.2 Infrastructure* the following Strategy:

Strategy 2.2.2:

‘Encourage development that is consistent with the individual character of towns’

At *Outcome 4.1 Shire Governance* the following Strategy:

Strategy 4.1.1:

‘A Shire that listens and considers the needs of each community.’

Accordingly, the recommended outcome for this report aligns with the Corporate Business Plan.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Operational</i> Staff would deal with applications and enquiries on their merits, without overarching guidance	<i>Likely</i>	<i>Moderate</i>	<i>Moderate</i>	Endorse the review and update of the policy
Opportunity: <i>Ensure consistency with legislation and State Planning Policies and meet contemporary community expectations.</i>				

STRATEGIC RISK IMPLICATIONS

Amending the Local planning Scheme to accommodate child care facilities in a wider range of zones has the potential for competition with the tenant of the Shire managed premises and the proposed child care facility at the Mount Barker Community Resource Centre.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

At the Council Meeting held on the 26 September 2023, Council resolved (resolution No. 149/23) to approve to advertise the proposed policy. As a result, in accordance with Schedule 2, Part 12 clause 87, subclauses 3, 4 and 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Local Planning Policy was advertised to the public between 18 October 2023 and 1 November 2023. No formal submissions were received during the public advertising period. As a result, it is assumed there is no objection to the Policy. Conversely, in speaking with members of the public during this time, it was clear there is support for this policy given the unmet demand for child care services within the Shire.

According to the Australian Bureau of Statistics (ABS), the Shire's population has grown 9.54% from the period of 2016-2022. This is in comparison to Denmark's 8.57% increase and Albany's 8.45% increase in this same time period. The need for child care services is expected to also continue to increase with the population.

As the population grows and ages, employment opportunities are likely to be created, the number of younger families moving to the area is likely to continue and the demand for childcare services is also likely to increase.

The aim of the new Policy is to be proactive as more Child Care services seek to begin opening. Additional services will need to be located outside of the town centre beyond the commercial/business zones to meet demand and provide choice for working families. This policy will provide a solid framework, ensure protections to surrounding landowners, and achieve positive overall development for all.

Child Care Premises within the Shire of Plantagenet are currently assessed without any specific local planning framework. Reference is made to industry standards and policies applicable in other local government areas. The Department of Planning, Lands and Heritage's (DPLH's) *DRAFT Position Statement: Child Care Premises*, whilst still in draft at this point in time, provides guidance to policy development and suggests that a Local Planning Policy, or amendments to a Local Planning Scheme is recommended to ensure the development of Child Care Centres in a consistent and positive manner. The Shire's draft *Local Planning Policy 4- Child Care Premises* has been developed taking advice from this draft position statement, analysing other local government planning policies on child care premises, and using previous experience in the assessment and approval of child care premises.

From anecdotal comments received, it is well established that there is a need for additional childcare facilities in the region as a whole.

The Great Southern Development Commission's (GSDC) *Strategic Plan 2022-23 to 2024-25*, has outlined that childcare infrastructure is a 'Strategic Priority' for regional liveability, and that investment should be encouraged wherever possible around this due to the noted shortfall in the Great Southern region. Child care infrastructure is identified as critical social and economic infrastructure.

Statistics show there is a significant shortfall for child care services in the Shire. Results provided from a small survey conducted by child care service provider *The Gowrie (WA)*, when doing a feasibility study, indicated the following:

- The community has consistently shown an increase in these services is needed
- There is currently only one child care premise operating in the Shire with a capacity of only 24 children, yet servicing a radius of 4,875kms and over 5,500 residents.
- The waiting list is very extensive.
- The next closest child care premise is 51km away in Albany, which has an average waitlist time of 16 months.

Currently, Child Care Premises are an 'X'-not permitted use in the Residential Zone, under the Shire's Local Planning Scheme No.5. This is inconsistent with DPLH's *DRAFT Position Statement: Child Care Premises*, and other local planning schemes within the State. During the 28 November 2023 Council Meeting, the Council will also be considering a request received for a Scheme Amendment, to have this changed to an 'A' use in the Residential Zone (means that the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the proposal). This will not only bring the Shire's Local Planning Scheme No.5 in line with DPLH's *DRAFT Position Statement: Child Care Premises*, but also other local planning schemes across the State. Further to this, it will open up more opportunities for more providers to enter the industry within the Shire and help meet currently growing demand for the service.

Creating this new policy in anticipation of the Scheme Amendment being finalised will ensure the Shire has consistent guidance and framework around Child Care Premises proposals already in place. Having this policy in place prior to the Scheme Amendment demonstrates forward planning and reflects Council's proactive role in community services development.

The Policy includes parameters around site design, landscaping, location of outdoor play areas, parking/traffic, hours of operation, signage, waste disposal and bushfire management. These parameters are consistent with policies from local governments around the state as well as DPLH's *DRAFT Position Statement: Child Care Premises*.

Overall, the policy aims to bolster the positive development of Child Care Premises within the Shire and provides a framework for this development to occur consistently, sustainably and for the benefit of the broader community. With the increase in these services, the Shire will be able to better support population growth, employment growth and in turn, result in greater economic growth.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council in accordance with Part 2 clauses 3 and 4 and Part 12 clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopts Local Planning Policy No. 4 – Child Care Premises & Family Day Care as follows:

**LOCAL PLANNING POLICY No. 4 –
Child Care Premises & Family Day Care****1. CITATION**

This Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This Policy may be cited as LPP No. 4- Child Care Premises & Family Day Care.

2. CRITERIA

- a. To protect the amenity of the locality in which the Child Care Premises & Family Day Care is proposed.
- b. To set standards in respect to Child Care Premises & Family Day Care throughout the Shire.
- c. To create consistent and uniform guidelines for the development of Child Care Premises across the Shire.

3. INTRODUCTION

A framework and guidelines for the development of Child Care facilities in the Shire is required, which is consistent with *Local Planning Scheme No.5 (LPS5)* and considers local needs, and to provide uniform development of Child Care Premises & Family Day Cares across the Shire.

4. DEFINITIONS

Words and expression used in this policy have the same meaning as they have in the Local Planning Scheme and other relevant legislation.

- **Child Care Premises-** means a place where a child care service as defined in the *Child Care Services Act 2007* section 4 is provided.
- **Child Care Service-** means –
 - a. any education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1); or
 - b. any child care service as defined in the *Child Care Services Act 2007* section 4
- **Family Day Care Service-** means a type of child care service prescribed as a family day care service for the purposes of the *Child Care Services Act 2007*

5. DEVELOPMENT REQUIREMENTS

Child care Premises are strongly encouraged to be located adjacent to schools, public open space, or other community or recreational uses including non-residential land uses such as appropriate commercial uses.

The following criteria will be considered in determining applications for child care premises:

1. Location and Residential Amenity

- a. The built form of the development should be consistent with the scale and character of the locality and should lend itself to domestic (residential) architecture if located in a residential setting.
 - b. The proposed materials, colours and finishes should be sympathetic to surrounding development.
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- c. The layout and design of child care premises shall include noise attenuation measures to ameliorate the impact of the use on adjoining and surrounding properties (if applicable). Noise-generating activities such as play areas, vehicle access ways, car parking areas and any plant and equipment are to be located away from noise-sensitive land uses, such as residential dwellings wherever possible.
 - d. In order to maintain the visual amenity of the locality, landscape screening to car parking areas from the street and adjoining premises is required. Existing and proposed major plantings must be detailed on site plans, with proposed landscaping incorporating dense shrubs and trees. Wherever possible, retention of existing mature vegetation will be encouraged by the Shire (providing on-site safety is not compromised).
 - e. Child care Premises will not be supported within cul-de-sacs or on lots with a battle-axe access leg.
2. **Site Design**
- a. The site is to have a regular shape, with a minimum lot area of 1,000m² and an effective frontage of 20m to provide the opportunity for design aimed at minimising the impact on surrounding residential properties.
 - b. Site coverage is required to be a maximum of fifty per cent (50%) to allow for adequate open space, residential character and car parking areas.
3. **Landscaping**
- a. The first 2m from the front boundary of the lot shall be landscaped as a minimum.
 - b. Secondary street frontages shall have a minimum 1m landscaping strip.
4. **Outdoor Play Areas**
- a. Outdoor play areas should be located so as to minimise their impact on the amenity of the adjoining properties whilst taking advantage of solar orientation where possible. Outdoor play areas should be screened from sources of pollution, such as car parking areas and roads, by appropriate fencing and/or dense vegetation.
 - b. A portion of the outdoor play area is required to be covered with a shade structure for sun protection. The colours and materials of this shade structure should be sympathetic to surrounding development.
 - c. Where the play area is located in the front setback area, fencing of this area shall be predominantly open. Fencing should not appear solid, adversely affecting in particular residential Streetscape or cast shadows over the play area. These same requirements also generally apply to secondary street frontages (recognising some sections of screen fencing will be necessary).
5. **Parking and Traffic**
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- a. Car parking areas should be purposely located on-site so as to be visible from the street to encourage patrons to park on-site instead of on road verges. Car parking bays that are the least visible or accessible should be allocated for staff use.
 - b. Car parking areas are required to be landscaped with the objective of providing shade and softening the impact of car parking and the development on the streetscape.
 - c. On-site parking provision is to be in accordance with the following requirements: 1 bay: 1 employee, PLUS 1 bay: 10 children
 - d. Parking for larger vehicles (buses and service vehicles) should be considered in the design and layout of parking areas.
 - e. Traffic associated with a child care premises is not to unreasonably reduce the function and safety of the local road network. Vehicle access to and from the site must be available in forward gear, achieved through adequate on-site manoeuvring.
 - f. Pedestrian movement across and/or through parking provided for a child care premises is to take place on dedicated pedestrian paths (for parent/child safety).
6. **Hours of Operation**
Days and times of operation shall generally be restricted from Monday to Friday, from 6.00am to 7.00pm and Saturday, from 8.00am to 4.00pm, unless otherwise approved by the Shire.
7. **Signage**
All signage associated with the child care premises shall be consistent with the Shire's Signage Policy, in addition to addressing the following:
- a. be compatible and sympathetic to adjoining development to ensure the amenity of the surrounding area is maintained;
 - b. not be placed in a location that detrimentally interferes with the visibility of traffic and pedestrians entering and leaving the lot, adjacent property or roadway;
 - c. not display signs exceeding 1m² in aggregate;
 - d. not include Pylon signs.
8. **Bin Storage Areas**
Bin stores should generally be screened behind fencing or dense vegetation out of immediate street and public view.
9. **Bushfire Management Plan**
A Bushfire Management Plan is required to accompany an application development (planning) approval for lots within a designated Bushfire Prone Area in accordance with State Planning Policy 3.7 – Planning in Bushfire Prone Areas and the associated Guidelines for Planning in Bushfire Prone Areas.
10. **Family Day Care Services**
The following criteria are intended to ensure that premises approved for Family Day Care are of a suitable size and configuration, and are
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operated in a manner that will not impact neighbours' residential amenity.

a) **Suitable Types of Dwellings**

- i. A dwelling proposed to be used for Family Day Care shall have a minimum external 'playing space' of 40m², with a minimum dimension of 6m, located adjacent to the dwelling and within an area set aside for the exclusive use of the occupants of the dwelling.
- ii. The use of a Multiple Dwelling for Family Day Care is not permitted.

b) **Car Parking**

- i. An on-site carparking area for pick up and drop off shall be provided, in addition to meeting the carparking requirements of the dwelling under the *State Planning Policy 7.3- Residential Design Codes*.
- ii. On-street carparking and other forms of carparking within the public realm will not be considered part of any application, these are to be reserved for public use, not for commercial benefit.

c) **Operational Criteria**

- i. Operating hours shall be restricted to 7am and 7pm Monday to Friday, as operations outside those hours have the potential to impact adjoining landowner residential amenity. Proposals involving hours outside this standard will be considered carefully and in detail, dependent on scale. It is recommended that such events be limited to 'by appointment only'.
- ii. An Operational Management Plan should be provided with a development application for Family Day Care

11. **Information required on Applications**

The Shire requires applications for child care premises to be submitted with adequate information to enable a detailed assessment of the development to be conducted, in line with the Shire's Development Application Checklist, and should also include the following:

a. **An Operational Management Plan**

- i. numbers of adult and non-adult staff to be employed days and hours of operation
- ii. number and age of children proposed to attend the centre
- iii. Operating hours
- iv. Daily Routine
- v. Any other information deemed relevant

b. **a schedule of materials, colours and finishes**

c. **existing and/or proposed landscaping including major plant species intended front and side fencing**

d. **number, location and size of any proposed signs**

e. **The Shire may require noise and traffic impact assessments to be submitted prior to determination of the application.**

12. **Other Approvals**

In addition to seeking Development Approval from the Shire, applicants are encouraged to discuss their proposal with the relevant government licensing and regulatory agencies. The outcomes of these discussions should be presented to the Shire as part of any application in order to facilitate the assessment process.

13. PERMISSIBILITY

Compliance with this policy does not negate the requirement of a Building Permit and any other associated approvals.

9.1.2 DRAFT LOCAL PLANNING POLICY NO. 5 – SINGLE HOUSE EXEMPTIONS IN NON-RESIDENTIAL ZONES

File Ref:	N62407
Responsible Officer:	Delma Baesjou - Manager Development Services
Author:	André Pinto - Senior Planner
Proposed Meeting Date:	28 November 2023

PURPOSE

The purpose of this report is to consider for adoption of a new Local Planning Policy to streamline the process for future development of Single Houses within the non-residential zones of the Shire.

BACKGROUND

A report on draft Local Planning Policy 5 - *Single House Exemptions in Non-Residential Zones* (LPP5) was considered by the Council at its Ordinary Council Meeting held 26 September 2023. It was resolved to proceed with formal advertising, in accordance with Planning and Development (Local Planning Schemes) Regulations 2015.

The Planning and Development Act 2005 legislates the use and development of land in Western Australia through the planning system. The Shire's Local Planning Scheme No. 5 (LPS5) is a key part of this planning system, controlling the use and form of buildings. This is supported by various local and state planning policies.

Draft *LPP5- Single House Exemptions in Non-Residential Zones* will facilitate the development of Single Houses throughout the non-residential zones of the Shire and provide guidance on their assessment and approval. Currently, due to changes in the Planning Regulations and under LPS5, all Single Houses in non-residential zones require development (planning) approval prior to seeking a building permit.

The intention of the new policy is to set parameters for development, reduce 'red-tape', assist in reducing timeframes and to help in the current housing crisis. This is similar to the process for compliant dwellings under the R-Codes which are exempt from requiring Development Approval. As a result of the reduction in the workload associated with processing development applications, the Senior Planner will be able to focus on other projects, such as the Shire's new Local Planning Strategy. In the absence of a larger planning team, these initiatives are required to be able to achieve more strategic planning level items.

EXTERNAL CONSULTATION

In accordance with Council Resolution 152/23 and Schedule 2, Part 12 clause 87, subclauses 3, 4 and 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, draft LPP5 was advertised to the public between 18 October 2023 and 1 November 2023. No submissions were received during the 21-day advertising period. In the absence of any formal objections, it is taken there is general support for the adoption of the policy.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Plantagenet Local Planning Scheme No. 5 (LPS5)

POLICY IMPLICATIONS

This policy is presented to the Council as part of its ongoing policy review cycle.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Corporate Business Plan 2022/23 – 2025/26 provides:

At *Outcome 2.2 Infrastructure* the following Strategy:

Strategy 2.2.2:

‘Encourage development that is consistent with the individual character of towns’

At *Outcome 4 Performance & Leadership* the following Strategies:

Strategy 4.1.1:

‘A Shire that listens and considers the needs of each community.’

Accordingly, the recommended outcome for this report aligns with the Corporate Business Plan.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Operational</i> Senior Planner is not able to complete more significant strategic items such as the Local Planning Strategy due to limited resources.	<i>Likely</i>	<i>Moderate</i>	<i>Moderate</i>	Endorse the review and update of the policy
<i>Financial</i> Reduced income due to fewer applications and less fees received.	<i>Likely</i>	<i>Moderate</i>	<i>Moderate</i>	Development Applications make up a very small portion of Shire revenue, impact minimal noting the benefit to the community with the policy
Opportunity: Facilitate housing development by reducing processing times and minimising red tape. <i>Ensure the Senior Planner gains more time to complete strategic tasks.</i>				

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

At the Council Meeting held on 26 September 2023, the Council resolved (resolution No. 149/23) to approve to advertise the proposed policy. As a result, in accordance with Schedule 2, Part 12 and clause 87, subclauses 3, 4 and 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Local Planning Policy was advertised to the public between 18 October 2023 and 1 November 2023, with no comments having been received. It is therefore assumed there is no objections and there is support for the adoption of the policy. Anecdotally, through speaking with industry representatives and members of the public during this time, there was support for this policy given the reduction of 'red tape' and reduction of timeframes especially during the current building industry crisis. This was especially noted with building and architectural companies that engage with the Shire on a regular basis.

Currently, under LPS5 and due to changes in the Planning Regulations, all Single Houses in non-residential zones are required to obtain Development (planning) Approval as a prerequisite seeking a Building Permit. Draft *LPP5- Single House*

Exemptions in Non-Residential Zones will accommodate for the development of Single Houses throughout the non-residential zones of the Shire and provide guidance on their assessment and approval.

If applicants are able to demonstrate compliance with the criteria outlined in the policy such as bushfire requirements, wastewater, setbacks, water supply etc. they will not require a Development Approval (Planning Approval) and can proceed straight to the Building Permit stage.

As planning reform continues at a State level to reduce unnecessary 'red-tape', this policy is considered to be part of improving that process at a local level and assisting in the removal of 'red-tape' and streamlining the development process for Shire ratepayers.

This new policy is consistent with policies in other regional local governments, especially those with smaller planning teams/one planner like the Shire of Plantagenet. In particular, streamlining the approvals process will enable Shire staff to review the entire planning framework and other associated larger strategic requirements. A benefit to these exemptions will be the reduction in the number and timeframes associated with processing planning applications. In the absence of another planner or team of planners to share workload like seen at other local governments, this reduction in applications will provide the Senior Planner some time to focus on more significant projects. Projects including overdue Local Planning Strategy review, overdue Local Planning Scheme amendments, Local Housing Strategy, additional Local Planning Policy reviews, together with other overarching strategic documents.

Following technical review of the draft policy, officers recommend refinement of Part 5 – Development Requirements - Effluent Disposal to further clarify the options and requirements for on-site wastewater management.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council, in accordance with Part 2 clauses 3 and 4 and Part 12 clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopt Local Planning Policy No. 5 – Single House Exemptions in Non-Residential Zones as follows:

LOCAL PLANNING POLICY No. 5 – Single House Exemptions in Non-Residential Zones

1. CITATION

This Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

This Policy may be cited as LPP No. 5- Single House Exemptions in Non-Residential Zones.

2. CRITERIA

- a. To protect the amenity of the locality in which the Single House is proposed.
- b. To set standards in respect to Single Houses in non-residential zones.
- c. To create consistent and uniform guidelines for the development of Single Houses in non-residential zones across the Shire.

3. INTRODUCTION

A consistent set of guidelines for the development of Single Houses in non-residential zones in the Shire is required, which is consistent with *Local Planning Scheme No.5 (LPS5)* and considers local needs, and to provide consistent development of Single Houses in non-residential zones across the Shire.

4. DEFINITIONS

Words and expression used in this policy have the same meaning as they have in the Local Planning Scheme and other relevant legislation.

- **BAL-** means Bushfire Attack Level as determined in accordance with Australian Standard AS3959: Construction of buildings in bushfire-prone areas (as amended).
- **BAL assessment/report:** An assessment/report prepared in a manner and form set out in AS 3959 to determine a BAL. It is strongly recommended that BAL assessments are prepared by accredited Level 1 BAL Assessors.
- **Donga/Transportable dwelling-** a temporary building, normally built of lightweight materials and easily able to be moved from site to site.
- **Minor/Incidental development-** means any non-habitable structure associated with a Single House, not considered to be an Outbuilding, that is not located under the main roof of the Single House and/or is not attached to the Single House.
- **Tiny Home on Wheels-** is a small residential unit built on a wheeled trailer base, designed to look and function similarly to a home, but transportable when required.

5. DEVELOPMENT REQUIREMENTS

The erection or extension of a Single House in the Rural, Rural Residential, Rural Smallholdings, Rural Village, Special Use Zones will be exempt from requiring Development (Planning) Approval if compliance with the following is achieved (this does not negate the requirement for a Building Permit approval):

Setbacks

Where no approved Building Envelope exists on the lot, compliance with setbacks is to be as per the relevant section of the Shire's Local Planning Scheme for each zone.

Where an approved Building Envelope is on the lot, all development is to occur within the approved Building Envelope area.

Notwithstanding, the minimum setbacks applicable in the zone or Building Envelopes, new Single Houses and their associated structures, should generally be setback a minimum of 20 metres from any lot boundary to accommodate a suitable Asset Protection Zone (APZ) within the subject land for bushfire safety purposes, where applicable, as per the Shire's Bushfire Mitigation Notice, unless a BAL report is provided as evidence that a reduced Asset Protection Zone (APZ) can be accommodated for.

Building Height

Single Houses are not to exceed 8m in height from Natural Ground Level (NGL).

Bushfire

Where the development is located within a designated Bushfire Prone Area:

- the development has a BAL of BAL-29 or lower or;
- the works are exempt from compliance with State Planning Policy 3.7 – Planning in Bushfire Prone areas including the Guidelines for Planning in Bushfire Prone Areas

A BAL report from an accredited Bushfire Consultant or, where applicable a BAL Basic (Self-Assessment), is to be provided with the Building Permit application to provide evidence of a BAL of BAL-29 or lower being achieved.

Water Supply

No Single House shall be approved or occupied unless it is connected to and has an adequate supply of potable water as follows:

- a) Water Corporation of Western Australia mains connection; or
- b) A 92,000L minimum capacity water tanks(s) connected to sufficient roof catchments, or
- c) Some other form of approved water supply with adequate guaranteed quality and quantity, or
- d) An approved combination of items a), b) and/or c).

Further water supply requirements for Bushfire Prone lots:

- a) 10,000L is to be retained for Emergency Services (this can be in the form of a separate water tank or as part of a minimum 92,000L water tank)
- b) All water tanks to be fitted with 65mm (2.5") female camlock outlets for Emergency Services.
- c) Signage outlining "Fire Water Tank Outlet"

Effluent Disposal

Where no reticulated sewerage connection to the Lot is available* the installation of an onsite wastewater management system is required.

*The owner of the Lot may be required to connect the premises with public sewer if the land is situated in the district within 91 m of the sewer. Health (Misc. Provisions) Act 1911 81. (1)

Some Lots require the installation of either an Aerated Wastewater Treatment System (AWTS) or Secondary Treatment System (STS); please

contact the Shires' Environmental Health Officer to determine if your Lot is captured by this requirement.

An 'Application to Construct or Install an Apparatus for the Treatment of Sewage' (WW application form) is to accompany the Building Permit Application for assessment of compliance with the relevant Health Regulations, Government Sewerage Policy 2019, Health (Miscellaneous Provisions) Act 1911 and Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974. Associated fees are to be paid at the time of lodgement; these are a gazetted fee and can be found in the WW application form.

Please contact the Shire's Environmental Health Officer to determine if a 'Site and Soil Evaluation for Onsite Wastewater Management Report' or any other geotechnical information is required to accompany your application.

There are minimum setbacks and clearances that must be achieved depending on the waste management system to be installed. Your plumber or installer will be able to advise, or you can call the Shires Environmental Health Officer for further information.

Vehicular Access

Vehicular Access within private lot boundaries is to be as follows:

- The access track is to be 6m wide, with 4m of this being a trafficable surface, and having 4m of headroom clearance for emergency service vehicle clearance.
- Where a lot is deemed 'Bushfire Prone' and the accessway to the dwelling is 50m or greater in length, an emergency services turning area is required to be provided and noted on the Site Plan. The Turning Areas are to be in line with the specifications under the Department of Planning, Lands and Heritage's *Guidelines for Planning in Bushfire Prone Areas*.

Site Works

Where earthworks and/or retaining is proposed in conjunction with the proposal of a new Single House:

- Earthworks (cut/fill) are not to exceed 1000mm above or below Natural Ground Level (NGL)
- Retaining walls are not to exceed 1000mm above or below Natural Ground Level (NGL)

A balance of cut and fill, sympathetic to the natural contours of the site is expected as a minimum when conducting earthworks.

Vegetation Clearing

The following vegetation clearing is exempt from requiring Development (Planning) Approval:

- In a Rural Zone no more than 10% of a lot shall be cleared without Shire approval where it is associated with an exempted/approved single house proposal. (where exempt from requiring Department of Water & Environmental Regulation (DWER) clearing permits).

- In the Rural Residential, Rural Smallholdings, Rural Village and Special Use zones, remnant vegetation shall not be removed, or modified in any way, except with the approval of the Shire and where, in its opinion, the removal is necessary in the following circumstances:
 - For the purpose of an approved building envelope and access ways;
 - To maintain an Asset Protection Zone as determined by an Approved BAL Report
 - Trees/vegetation are considered to be a hazard;
 - For firefighting purposes or construction of strategic fire breaks; and
 - Control of weed infestation.
- All existing vegetation within 30 metres of a stream, creek, watercourse, flood plain, or permanent or seasonal areas of inundation, or on land which has slopes in excess of 20% shall not be modified except with the approval of the Shire.

Schedules of Local Planning Scheme

The provisions and requirements set out in Schedules 2 (Rural Residential Zone), 3 (Rural Smallholdings Zone), 5 (Rural Village Zone) and Table 5 (Special Use) of the Shire's Local Planning Scheme are to be satisfied to achieve compliance with this Policy.

Minor/Incidental Additions

Minor or Incidental Additions such as the following, are exempt from requiring Development (Planning) Approval subject to the relevant setbacks for the zone:

- patio;
- verandah;
- pergola;
- shade sail;
- decking not more than 500mm above natural ground level;
- swimming pool where no part of the swimming pool structure is more than 500mm above natural ground level other than an associated safety barriers in accordance with AS1926.1 & AS1926.2 (as amended) provided the safety barriers comply with the definition of 'visually permeable' (as defined by State Planning Policy 7.3: Residential Design Codes Volume 1 (as amended)).

Proposals Not Exempt By This Policy

- More than one Single House on a single lot;
- Development in a place that has been entered in the Register of Places under the *Heritage of Western Australia Act 1990*;
- Ancillary Dwellings (refer Local Planning Policy No.1- Ancillary Dwellings);
- Dongas/transportable dwellings, tiny homes on wheels and structures of a similar nature.

6. PERMISSIBILITY

Where a Single House proposal is deemed to satisfy the requirements of this Policy and relevant provisions of *Local Planning Scheme No.5*, Development Approval will not be required, unless stated otherwise.

Proposals that do not satisfy the criteria will be assessed on their merits and determined by the Shire through an application for Development Approval.

Compliance with this policy does not negate the requirement of a Building Permit.

9.1.3 LOCAL PLANNING SCHEME NO. 5 – AMENDMENT NO.1 - CHILD CARE PREMISES – CHANGE OF USE ‘X’ TO ‘A’ IN RESIDENTIAL ZONE

File Ref:	N62406
Attachment:	<u>Harley Dykstra- Scheme Amendment Report</u> <u>WAPC: Draft Position Statement: Child Care Premises</u>
Responsible Officer:	Delma Baesjou- Manager Development Services
Author:	André Pinto- Senior Planner
Proprietor/Applicant:	Harley Dykstra
Proposed Meeting Date:	28 November 2023

PURPOSE

The purpose of this report is to consider initiating an Amendment to the Shire’s Local Planning Scheme No.5 to allow Child Care Premises as an ‘A’ use (discretionary and subject to advertising) within the Residential zone.

BACKGROUND

The land use “Child Care Premises” is currently not permitted (‘X’ use) within the Residential Zone under Local Planning Scheme No. 5 (LPS5). This is considered inconsistent with the objectives and intent of the Residential Zone of LPS 5, the Shire’s Local Planning Strategy and modern expectations of childcare facilities within the planning industry in Western Australia.

This proposed amendment aligns with the Shire’s Planning Department’s effort to modernise the planning framework within the Shire to becoming more forward thinking, innovative and flexible when required. Currently the ‘X’ use dictated in the Scheme does not provide any ability for consideration to be given to a childcare premises proposal in the Residential Zone.

The amendment will provide the opportunity to develop key sites within established and proposed residential areas where childcare facilities are needed, noting the Shire’s significantly growing population especially among young families and the unmet demand for additional child care places has become a significant barrier to many businesses getting new employees into the Shire.

EXTERNAL CONSULTATION

Preliminary consultation regarding the proposed Scheme Amendment has occurred with staff from the Department of Planning Lands and Heritage.

The process for basic amendments is set out in Division 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. It includes referral to the Environmental Protection Authority and, under clause 61, the potential for the Minister to direct the Shire to advertise the proposed amendment.

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Planning and Development (Local Planning Schemes) Regulations 2015.

POLICY IMPLICATIONS

Proposed Scheme Amendment aligns with intention of Draft *Local Planning Policy (LPP) 4- Child Care Premises & Family Day Care*.

FINANCIAL IMPLICATIONS

The application fee of \$3,745.00 was received on 1 November 2023.

BUDGET IMPLICATIONS

There are no budget implications for this report.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Corporate Business Plan 2022/23 – 2025/26 provides:

At Outcome 3.1 Local Business the following Strategies:

Strategy 3.1.1:

Develop and implement policies and initiatives to attract inward migration and investment

3.1.2:

Businesses are encouraged and supported

At Outcome 4.1 Shire Governance the following Strategy:

Strategy 4.1.1:

'A Shire that listens and considers the needs of each community.'

Accordingly, the recommended outcome for this report aligns with the Corporate Business Plan.

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

The ever-increasing demand for child care centres and the strong focus on their appropriate distribution and location is closely linked to demographic change. In the past 30 years, the population of the state has almost doubled to about two million and

is expected to rise to approximately three million by 2031, while households also are becoming more diverse. The Shire has experienced a 9.54% increase in population from 2016-2022, greater than both Denmark and Albany. There is a trend for both parents to work due to economic pressures, which creates a greater demand for child care services. Consequently, the availability of child care centres in close proximity to the workplace is becoming more important within the Shire and many businesses highlight the lack of child care services and housing are the two biggest barriers to getting new workers in town as business demand grows. This Amendment to the Local Planning Scheme aims to assist in meeting this demand and allowing more workers to be able to live in the area due to these services being available.

This amendment requests that the Shire of Plantagenet amend Local Planning Scheme No. 5 (LPS 5) land use permissibility to allow "Child Care Premises" to be considered within the 'Residential' zone.

The amendment will provide the opportunity for Child Care Premises to be considered within the Residential zone where it can be demonstrated that proposals align with the requirements and objectives of *Draft Local Planning Policy 4- Child Care Premises & Family Day Care*. The opportunity to expand the permitted zones in which a Child Care Premises may be considered will assist in addressing the shortage of these facilities that currently exists within the Shire of Plantagenet.

The proposed 'A' use classification within the Local Planning Scheme for Child Care Premises, still requires a development application to be prepared in conjunction with the relevant planning criteria and lodged for consideration by the Shire, including public advertising which will ensure any potential development sites can be considered in detail prior to a determination occurring. This will ensure all potential amenity issues are dealt with through the application process and as per Draft LPP 4.

The amendment is regarded as a Basic Amendment, therefore clause 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* is applicable.

The proposed modification of the land use permissibility is considered consistent with the objectives, intent and requirements of the existing state and local planning framework. The amendment is consistent with the objectives identified within Schedule 1 of the Deemed provisions, it accords with the Shire's Local Planning Strategy and satisfies the objectives of the Residential zone as set out in LPS5. The proposed amendment is also consistent with Western Australian Planning Commission (WAPC) Planning Bulletin 72 and the recently released draft Position State: Child Care Premises with the intent to locate child care premises where they are compatible with and complementary to residential land uses and the road network.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, amend Shire of Plantagenet Local Planning Scheme No 5 by modifying the permissibility of 'Child Care Premises' in the Residential zone from an 'X' use in to an 'A' use within the Zoning Table.
2. Determines that, pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Amendment No. 1 is a 'basic amendment' for the following reasons:
 - a. It is consistent with the model provisions in Schedule 1 of the Deemed provisions.
 - b. It is consistent with the objectives of the Local Planning Scheme and Local Planning Strategy for Residential zoned land.
 - c. It is consistent with WAPC Planning Bulletin 72 and the Draft *Position Statement: Child Care Premises*.
 - d. It is consistent with the Shire's Draft *LPP 4 – Child Care Premises*.
3. Authorises the Chief Executive Officer and Shire President to affix the Common Seal of the Council to the Local Planning Scheme No. 5 Amendment No. 1 documents.
4. Forwards Local Planning Scheme No.5 Amendment No. 1 to the *Environmental Protection Authority (EPA)* and the Western Australian Planning Commission, in accordance with the *Planning and Development Act 2005*, and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

9.1.4 PROPOSED DUAL NAMING OF RIVERS

File Ref:	N62450
Responsible Officer:	Delma Baesjou Manager Development Service
Author:	Delma Baesjou Manager Development Service
Proposed Meeting Date:	28 November 2023

PURPOSE

The purpose of this report is to consider a proposal for dual naming of four rivers that originate within the Shire of Plantagenet and flow through to the South Coast.

BACKGROUND

The Shire of Plantagenet has been invited to comment on a request from the Shire of Denmark (SoD) for dual naming of four rivers:

- Kwoorabup / Denmark River
- Kwakoorillup / Frankland River
- Gnowerrumbup / Kent River
- Genulup / Hay River

The SoD commenced its dual naming project pre-covid. Extensive research, agency liaison and stakeholder engagement was undertaken over the last decade, including establishment of a working group. The Shire submitted a report to South West Aboriginal Land and Sea Council (SWALSC) and Wagyl Kaip Aboriginal Corporation in January 2023 and subsequently received support and associated advice from the indigenous community on various proposed Noongar names for places and features.

Extracts from the documentation prepared for the SoD include the following explanations and commentary on the proposal for dual naming of the subject rivers.

- Kwoorabup / Denmark River – place of brush tailed wallaby / place we return to – linear feature that traverses through 2 LGA's; may have different indigenous names along its extent – confirm with LGA's indigenous Elder representatives.
- Kwakoorillup / Frankland River – place of the quokka – linear feature that traverses through 4 LGA's; may have different indigenous names along its extent – confirm with LGA's indigenous Elder representatives; name being applied to Reserve 41884
- Gnowerrumbup / Kent River – place of feathers - linear feature that traverses through 3 LGA's; may have different indigenous names along its extent – confirm with LGA's indigenous Elder representatives.
- Genulup / Hay River – place of day foot river crossing – City of Albany dual name 'Genullup' - linear feature that traverses through 3 LGA's; may have different indigenous names along its extent - confirm with LGA's indigenous Elder representatives.

EXTERNAL CONSULTATION

In September 2023, Shire of Plantagenet staff met with the Mount Barker Aboriginal Progress Association and sought comment on the proposed dual naming. The secretary has since confirmed that the Association has agreed to all proposals.

STATUTORY ENVIRONMENT

Land Administration Act 1997

The Minister for Lands has the authority for officially approving all geographic features and place names in Western Australia.

The Aboriginal and Dual Naming Guidelines provide a framework for the naming of Western Australian geographical features and places with Aboriginal names.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Corporate Business Plan 2022/23 – 2025/26 provides:

At Outcome 1.4 Support for Community Groups and Volunteers

Strategy 1.4.4:

‘Continue to build relationships with our First Nation and multicultural communities’

At *Outcome 4.1 Shire Governance* the following Strategies:

Strategy 4.1.1:

‘A Shire that listens and considers the needs of each community.’

Strategy 4.1.2:

‘A progressive Shire with diverse thinking.’

Accordingly, the recommended outcome for this report aligns with the Corporate Business Plan.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Comments</i>
Objection/failure to support the proposed dual naming seen as conservative				Adopt the Officer Recommendation
Opportunity: Demonstrate culturally appropriate and contemporary approach to naming of landscape features				

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

The subject rivers flow across municipal boundaries and the proposed dual naming is of relevance to the Great Southern/South Coast Regions.

OFFICER COMMENT

In appreciating why Aboriginal and dual names are important, Landgate provides the following commentary.

Geographical features and places in Western Australia were named by Aboriginal peoples long before the arrival of non-Aboriginal people. The names are not arbitrary: they are intrinsically attached to an Aboriginal group's understanding of its history, culture, rights, and responsibilities to the lands.

As part of preserving the history of Western Australia, it is important we, as a community, acknowledge and embrace the history and continued endurance of Western Australian Aboriginal languages and cultures. By acknowledging this continued existence and the survival and adaptation of Western Australian Aboriginal peoples, we recognise the Aboriginal history and ongoing connection to our landscape.

Landgate is committed to the continued recognition of Aboriginal cultural heritage by capturing and recording the original place names and connection to geographical features and places. Assigning Aboriginal names to geographical features and places will help with the wider preservation of Aboriginal heritage and is an important way to progress reconciliation between Aboriginal and non-Aboriginal people in Western Australia. Additionally, these guidelines are intended to support local government and other agencies in the development of their Reconciliation Action Plan.

Based on the extensive background and research by the SoD and the recent support from the Mount Barker Aboriginal Progress Association, it is recommended that the Shire of Plantagenet provide in-principle support for the dual naming of four rivers.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council supports the proposed dual naming of the following places:

- **Kwoorabup / Denmark River**
- **Kwakoorillup / Frankland River**
- **Gnowerumbup / Kent River**
- **Genulup / Hay River.**

9.2 WORKS AND SERVICES REPORTS

9.2.1 ROADWISE COUNCIL

File Ref:	N62382
Responsible Officer:	Kevin Hemmings Executive Manager Works and Services
Author:	Amy Chadbourne Senior Administration, Works and Services
Proposed Meeting Date:	28 November 2023

PURPOSE

The purpose of this report is to consider an invitation from WALGA to become a RoadWise Council.

BACKGROUND

At the Plantagenet RoadWise Committee meeting held on 12 October 2023 it was resolved, *'That it be recommended to the Council that the Shire of Plantagenet register as a RoadWise Council with WALGA.'*

The function of the Council's RoadWise Committee is to:

- (1) Provide a structured forum for stakeholders to consider and discuss road safety issues; and
- (2) Discuss and make recommendation regarding the identification and appropriate counter measures to negative attitudinal, behavioural and environmental factors linked to enforcement, engineering, education, encouragement and evaluation of road safety initiatives.

EXTERNAL CONSULTATION

Consultation has taken place with WALGA's Regional Road Safety Advisor as well as the Council's RoadWise Committee.

STATUTORY ENVIRONMENT

Local Government Act 1995

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Corporate Business Plan 2022/23 – 2025/26 provides at Outcome 2 Environment (Natural and Built) the following:

Strategy 2.1.1.1:

‘Design, construct and maintain roads to safety best practice.’

Accordingly, the recommended outcome for this report aligns with the Corporate Business Plan.

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

OFFICER COMMENT

An invitation was received earlier this year from WALGA seeking the Shire’s interest in becoming a RoadWise Council. WALGA advises the idea is a new initiative which has been developed to support local governments to incorporate best practice road safety principles and policy to reduce the number of people killed and seriously injured on local roads. WALGA is advocating only ten local governments to each Road Safety Advisor.

The request was put to the Plantagenet RoadWise Committee which supported the idea. One of the committee members is WALGA’s Regional Road Safety Advisor. The advice received was that the Shire of Plantagenet will receive more focused and regular support to improve road safety outcomes. This could involve the facilitation of working groups, assistance with road safety ratings; staff capacity building; policy development etc.

It is expected that the Works and Services Department and the Plantagenet RoadWise Committee will liaise with the Regional Road Safety Advisor for ideas on road safety outcomes within the Shire.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Shire of Plantagenet becomes a WALGA RoadWise Council and commits to incorporate best practice road safety principles and policy to reduce the number of people killed and seriously injured on local roads.

9.3 CORPORATE SERVICES REPORTS

9.3.1 FINANCIAL STATEMENTS – OCTOBER 2023

File Ref:	N62418
Attachment:	<u>Financial Statements – October 2023</u>
Responsible Officer:	Peter Naylor Acting Executive Manager Corporate and Community Services
Author:	Peter Naylor Acting Executive Manager Corporate and Community Services
Proposed Meeting Date:	28 November 2023

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 October 2023.

STATUTORY ENVIRONMENT

Regulation 34 of the Financial Management Regulations (1996) requires a Statement of Financial Activity to be prepared each month, which is to contain the following details:

- a) annual budget estimates.
- b) budget estimates to the end of the month.
- c) actual amount of expenditure and revenue.
- d) material variances between comparable amounts in b) and c) above; and
- e) the net current assets at the end of the month to which the statement relates (i.e.: surplus/(deficit) position).

The Statement is to be accompanied by:

- a) explanation of the composition of net current assets, less committed assets and restricted assets.
- b) explanation of the material variances.
- c) such other information considered relevant by the local government.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational</i> That Council does not receive the financial activity statements as required by S6.4 of the LG Act 1995	<i>Rare</i>	<i>Insignificant</i>	<i>Low</i>	<i>That Council receives the financial activity statements as required by legislation.</i>

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council receives the Financial Statements for the period ending 31 October 2023.

9.3.2 LIST OF ACCOUNTS – OCTOBER 2023

File Ref:	N62373
Attachment:	<u>List of Accounts – October 2023</u>
Responsible Officer:	Peter Naylor Acting Executive Manager Corporate and Community Services
Author:	Donna Fawcett Finance Officer – Creditors and Payroll
Proposed Meeting Date:	24 November 2023

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of October 2023.

EXTERNAL CONSULTATION

No external consultation has occurred in relation to this report.

STATUTORY ENVIRONMENT

Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996 provides that payment may only be made from the municipal fund or trust fund if the Local Government has delegated the function to the Chief Executive Officer.

The Chief Executive Officer has delegated authority to authorise payments (28 June 2022). Relevant staff have also been issued with delegated authority to issue orders for the supply of goods and services subject to budget limitations.

Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer then a list of payments is to be presented to the Council at the next ordinary meeting and recorded in the minutes.

POLICY IMPLICATIONS

Council Policy F/FM/7 – Purchasing and Tender Guide applies.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

BUDGET IMPLICATIONS

There are no budget implications for this report.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational</i> That Council does not receive the list of payments	<i>Rare</i>	<i>Insignificant</i>	<i>Low</i>	<i>That Council receives the list of payments as required by legislation.</i>

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

REGIONAL IMPLICATIONS

There are no regional implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council receives, in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996, the list of payments made under delegated authority for the month ended 31 October 2023 as follows:

1. **Electronic Payments and Direct Debits totalling \$919,173.41; and**
2. **Municipal Cheque 47270 to 47273 totalling \$62,484.63.**

9.4 EXECUTIVE SERVICES REPORTS

9.4.1 SALE OF LOT 2072 JUTLAND ROAD KENDENUP

File Ref:	N60752
Attachment:	<u>Confidential Attachment</u> <u>– Responses to Public Notice for the Proposed Sale</u>
Responsible Officer:	Julian Murphy Chief Executive Officer
Author:	Peter Naylor Acting Executive Manager Corporate and Community Services
Proposed Meeting Date:	28 November 2023

PURPOSE

The purpose of this report is to consider submissions in regard to the sale of Lot 2072 Jutland Road, Kendenup to Jessica Mentha.

BACKGROUND

Two council workshops were held in 2022 to progress the sale of surplus land holdings.

At its meeting held on 27 September 2022, the Council resolved that nine properties which are surplus to requirements be offered for sale; one of which was Lot 2072 Jutland Road, Kendenup.

The sworn valuation for the property was \$65,000 (Range \$55-\$79,000).

The lots were advertised and put up for auction under the 'Market Buy' auction platform in late October 2022. The auctions closed between 10 and 13 December 2022.

At its meeting held on 20 December 2022, the Council further resolved:

'That:

- 1. Pursuant to Section 3.58 of the Local Government Act 1995, the highest offer of \$70,000.00 received in the Market Buy auction platform on Lot 2072 Jutland Road, Kendenup be accepted, subject to legal matters being addressed and the land becoming free of encumbrances.'*

Following this decision, the sale to the selected purchaser was put on hold pending legal outcomes being resolved. A caveat had been placed on the property by the owner of the neighbouring property, Jessica Mentha, but this was dismissed by Landgate due to a technical error. This error was subsequently corrected, and the caveat was accepted by Landgate.

Following that, a section 138B (Transfer of Land Act) notice was lodged with Landgate, the effect of which was to require the caveator, within 21 days, to apply for an order from the Supreme Court extending the operation of the caveat, failing which it would automatically lapse.

Jessica Mentha's lawyer wrote to the Shire advising that, in their opinion, Ms Mentha has very good prospects of obtaining title to the land by adverse possession.

Further, the Shire was requested to withdraw the Section 138B notice and withdraw the land from sale. If not, then they will apply to the Supreme Court for orders extending the caveat.

The Shire's legal advice was that the claim for adverse possession is strong, and it was recommended that the Shire should attempt to come to an agreement with Ms Mentha.

Therefore, at its meeting held on 2 May 2023, the Council resolved:

'That:

1. *The Council decision of 20 December 2022, as follows:*
 - '1. *Pursuant to Section 3.58 of the Local Government Act 1995, the highest offer of \$70,000.00 received in the Market Buy auction platform on Lot 2072 Jutland Road, Kendenup be accepted, subject to legal matters being addressed and the land becoming free of encumbrances.'*
be revoked.
2. *Pursuant to Section 3.58(3) of the Local Government Act 1995, the sale of Lot 2072 Jutland Road, Kendenup be passed in and the Chief Executive Officer be authorised to:*
 - (a) *Negotiate with the adjoining owner, Jessica Mentha for a sale of the property at an acceptable price.*
 - (b) *Give local public notice of the proposed disposition.*
 - (c) *Prepare a report to the Council for a final decision on the proposed disposition.'*

STATUTORY ENVIRONMENT

Section 3.58 (Disposing of property) of the Local Government Act 1995 applies, as follows:

- '(2) Except as stated in this section, a local government can only dispose of property to —*
- (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the*

reasons for it are recorded in the minutes of the meeting at which the decision was made.'

FINANCIAL IMPLICATIONS

The Shire will receive consideration of \$14,000.00 and share conveyancing costs, estimated at less than \$1,000.00 each.

BUDGET IMPLICATIONS

This disposal was not included in the 2023/2024 budget, so there will be unbudgeted income of \$14,000.00 and net expenditure of less than \$1,000.00.

EXTERNAL CONSULTATION

Consultation has taken place with Ms Mentha and her lawyer. Ms Mentha agrees to the proposal.

POLICY IMPLICATIONS

Policy implications do not apply for this report and it is the opinion of the author that policy development is not required.

LEGAL IMPLICATIONS

There are no legal implications for this report assuming the recommendation is followed.

ASSET MANAGEMENT IMPLICATIONS

The course of action recommended will aim to remove one property from the Council's control.

STRATEGIC IMPLICATIONS

There are no specific strategic implications for this report.

RISK MITIGATION IMPLICATIONS

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Financial – Potential loss of any income on sale as well as possible legal costs against the Shire</i>	<i>Likely</i>	<i>Minor</i>	<i>Moderate</i>	<i>Sell the property to Ms Mentha</i>

OFFICER COMMENT

This matter was raised at the Council forum on 14 September 2023 and no objections were raised to advertising the proposal. The Council had previously granted delegated authority to the Chief Executive Officer to do this.

An update of the previous sworn valuation was received which confirmed the valuation of the property at \$65,000.00.

The proposal was advertised in the Plantagenet News on 4 October 2023 as well as notices on the Shire's website, notice boards and a social media post.

In response to the public notice for the proposed sale of the land to Ms Mentha, Council has received two submissions objecting to the proposal.

Both the submissions make valid comments in relation to the proposed sale, which in some respects aligns with Council's initial resolution for the disposal of the land. However, the legal advice from Council's solicitors has directed Council to this current course of action.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council:

- 1. Receives the two submissions and acknowledges the comments contained therein.**
- 2. Pursuant to Section 3.58 of the Local Government Act 1995, approves the sale of 2072 Jutland Road, Kendenup to Jessica Cassie Mentha for consideration of \$14,000.00 with the conveyancing costs being shared equally.**
- 3. Grants authority to the President and the Chief Executive Officer to execute and, if necessary, affix the Common Seal of the Council to any documentation required to effect the property sales in Clause 1 above.**

9.4.2 POLICY REVIEW - ELECTED MEMBER EXPENSES TO BE REIMBURSED

File Ref:	N62420
Attachments:	<u>Elected Members Expenses to be reimbursed Policy with amendments</u>
Responsible Officer:	Julian Murphy Chief Executive Officer
Author:	Nolene Wake Executive Officer
Proposed Meeting Date:	28 November 2023

PURPOSE

The purpose of this report is to review Council Policy CE/CS/1 'Elected Member Expenses to be Reimbursed'.

BACKGROUND

This policy was previously reviewed at the Council Meeting held 26 October 2021.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 5.98 (2)(b) and (4) and Section 5.126.

Local Government (Administration) Regulations 1995 Regulation 32 and Regulation 35.

FINANCIAL IMPLICATIONS

There are no financial implications for this report, however annual allocations are included for budget consideration relating to Account 2040104 (Members Training & Development). The budget allocation is \$30,000.00.

POLICY IMPLICATIONS

This policy is presented to the Council as part of its ongoing policy review cycle.

LEGAL IMPLICATIONS

There are no legal implications for this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications as no assets are being created or acquired.

STRATEGIC RISK IMPLICATIONS

There are no strategic risk implications for this report.

STRATEGIC IMPLICATIONS

The Shire of Plantagenet Corporate Business Plan 2022/23 – 2025/26 provides at Outcome 4.1 (Shire Governance) the following Strategies:

Strategy 4.1.3:

'A Shire that is open and transparent with its community';

Accordingly, the recommended outcome for this report aligns with the Strategic Corporate Business Plan.

BUDGET IMPLICATIONS

An allocation of \$30,000.00 has been made in the current financial year, largely due to the introduction of Council Member Essentials training.

OFFICER COMMENT

Regulation 31(1) of the Local Government (Administration) Regulations 1996 allows for the reimbursement of childcare expenses for Elected Members attending meetings and undertaking official duties. The latest Salaries and Allowances Tribunal determination provides for the reimbursement of childcare expenses at the actual cost per hour or \$35 per hour, whichever is the lesser amount.

To ensure clarity for the reimbursement of childcare expenses, a Childcare clause has been included in the policy. Other than the above, it is considered that this policy is sufficient and should be endorsed.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That Council adopts amended Council Policy CE/CS/1 Elected Member Expenses to be Reimbursed as follows:

'OBJECTIVE

To enable Councillors to attend meetings, conferences and training opportunities while ensuring that individuals are not financially disadvantaged in doing so.

POLICY

That elected members receive reimbursement of expenses as detailed below whilst attending the following:

1.
 - a) **Council and Committee meetings held in accordance with the provisions of the Local Government Act.**
 - b) **Any function or meeting as an appointed representative of the Council where specifically authorised by the Council.**
 - c) **Conferences, seminars and training sessions specifically authorised by the Council.**
 - d) **Any official social function organised by, or on behalf of, the Shire of Plantagenet.**
2. **Travel**

- a) Councillors should use Council vehicles to attend conferences, seminars and training where they are authorised delegates of the Council subject to a vehicle being available.
- b) Reimbursement for the use of a private vehicle to be set in accordance with Clause 19.3 (Vehicle Allowance) of the Local Government Industry Award 2020.
- c) Where a Councillor is a member of an external committee and reimbursement of expenses is a condition of the membership, reimbursement of expenses will not be provided by the Council.
- d) If a Council vehicle is made available and not used, no expenses will be reimbursed for the use of a private vehicle, unless prior arrangements are agreed by the CEO.

3. Accommodation

Accommodation, meals, and parking expenses incurred to a maximum of \$400.00 per day will be reimbursed provided that all receipts are presented. Any unforeseen or additional expenses incurred will be paid only with respect to each individual claim at the discretion of the Chief Executive Officer in consultation with the Shire President.

Refreshments consumed with meals will be reimbursed. However, all other refreshments (e.g. hotel mini bar) will not be reimbursed by the Council.

4. Conference/Meeting/Training Attendance Costs

Where conference attendance is authorised by the Council, all conference attendance costs will be paid/reimbursed. Reimbursement for partners of members will be limited to:

- a) All meal costs.
- b) Accommodation, where such does not incur any additional expenditure for the Council.
- c) Any official social functions included on the official program of the conference/meeting.
- d) All events listed on the partner's itinerary.

5. Priority will be given to any conference/seminar or training that is specifically relevant to Councillors and in particular, conferences, seminars or training courses held by organisations of which the Council is a member, or has an interest in, and which would usually be attended by the Council's appointed representatives to those organisations. Attendance at such conference, seminar or training is subject to approval by the Council. Councillors' attendance at seminars/conferences/training is subject to budget provision.

6. When determining costs of a conference, seminar or training, all costs associated with attendance at the conference, seminar or training, including travel, accommodation, meals, telephone and other expenses, within reason and supported by receipts, to be included and paid for by the Council.

7. Reports of conference or seminar attendance are required in writing to the Council for inclusion in the Information Bulletin within six weeks following the conference/seminar attendance.
8. The type of conference/seminar or training that Councillors attend would generally be related to a particular function or activity in which the Council is involved, rather than individual or personal development type conference/seminars.
9. Elected Member –Training for Council Members – Council Member Essentials
 - 9.1 As soon as practicable after appointment, newly elected councillors are required to undertake the training course ‘Council Member Essentials’. This course provides an overview of the roles and responsibilities of Elected Members, the Local Government environment and protocols and procedures affecting the way Local Governments operate and consists of the following modules: (i) Understanding Local Government; (ii) Serving on Council; (iii) Meeting Procedures; (iv) Conflicts of Interest; and (v) Understanding Financial Reports and Budgets.
 - 9.2 All Councillors are encouraged to strive for a Diploma of Local Government which involves 13 modules (five of which will have been completed within the ‘Council Member Essentials’ training).
 - 9.3 All Local Government training requests referred to in 9.1 and 9.2 above are to be forwarded to the Chief Executive Officer who, in consultation with budget allocations, is authorised to make arrangements for registrations.
10. Childcare
Childcare will be reimbursed as per the Salary and Allowances Tribunal determination.

Childcare costs will not be paid for where the care is provided by a member of the immediate family or relative living in the same premises as the council member.

Claims must be made on the claim form provided and be accompanied by a receipt or invoice detailing the date, number of hours, rate and meeting attended and the details of the service provider.

Notes:

Accommodation requirements, whenever possible, are to be arranged in advance by the Chief Executive Officer and confirmed by an official purchase order. With regard to all other expenses, receipts are to be submitted to the Chief Executive Officer for reimbursement.’

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**12 CONFIDENTIAL****MOTION THAT THE MEETING BE CLOSED TO THE PUBLIC**

That in accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public with the following aspect(s) of the Act being applicable to this matter:

Section 5.23 (2) (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

12.1.1 MOUNT BARKER COMMUNITY RESOURCE CENTRE

File Ref:	N62455
Responsible Officer:	Julian Murphy Chief Executive Officer
Author:	Julian Murphy Chief Executive Officer
Proposed Meeting Date:	28 November 2023

MOTION THAT THE MEETING BE OPENED TO THE PUBLIC.

The Council decision to be read aloud in public.

13 CLOSURE OF MEETING